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**JUN 15 2005**

**OFFICE OF PETITIONS**

In re Application of :  
Delbert Tesar : DECISION ON PETITION  
Application No. 10/714,183 :  
Filed: 14 November, 2003 :  
Atty Docket No. 126928-1000 :

This is a decision on the petition filed on 7 April, 2005, under 37 CFR 1.137(b)<sup>1</sup>, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 13 October, 2004, for failure to timely file a response to the non-final Office action mailed on 12 July, 2004, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Petitioner attempted to file a timely amendment with an extension of time on 18 January, 2005

<sup>1</sup>Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

(certificate of mailing date 12 January, 2005), but the extension of time fee was insufficient. Notice of Abandonment was mailed on 22 February, 2005. The petition filed on 13 May, 2005, was dismissed on 23 May, 2005.

The present petition styled under 37 CFR 1.137(b) has not been signed. However, registered patent attorney William N. Hulsey, III's name has been printed in the space for a signature on the Certificate of Mailing or Transmission (37 CFR 1.8(a)) on the petition form. Since the Certificate of Mailing on the petition form has been signed by petitioner's counsel, the petition will be considered to be ratified by the signature on the Certificate of Mailing or Transmission.

Petitioner has included an IDS as the required reply. Additionally it is noted that an untimely amendment was previously filed as a reply.

The application is being referred to Technology Center Art Unit 3681 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions